

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MARK FITZHENRY, individually and on )  
behalf of all others similarly-situated, )

Plaintiff, )

v. )

Case No: 4:17-CV-774

VACATION CONSULTING SERVICES )  
LLC, BRIAN JAY SCROGGS, and )  
JOHN DOES 1-10, )

Defendants. )

**NOTICE OF REMOVAL**

Defendant Vacation Consulting Services, LLC (“VCS”) timely files this Notice of Removal (this “**Notice**”) pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, removing this action from St. Louis County Circuit Court, State of Missouri, to the United States District Court for the Eastern District of Missouri, and in support of this Notice, states as follows:

1. On December 5, 2016, Plaintiff Mark Fitzhenry (“**Plaintiff**”) filed a Petition (the “**Petition**”) against Defendant VCS and others in the Circuit Court of St. Louis County, State of Missouri, for a matter captioned *Mark Fitzhenry, individually and on behalf of all others similarly-situated v. Vacation Consulting Services, LLC, Brian Jay Scroggs, and John Does 1-10*, Case No. 16SL-CC04493.

2. The Petition contains claims alleging violations of the Telephone Consumer Protection Act of 1991 (“**TCPA**”), 47 U.S.C. § 227(b).

3. Pursuant to 28 U.S.C. § 1446(a), a copy of the Petition is attached as **Exhibit A**; a copy of the County Court Summons is attached as **Exhibit B**; and a copy of proof of service on

Vacation Consulting Services, LLC is attached as **Exhibit C**.

5. Plaintiff served VCS with the summons on January 20, 2017. Accordingly, VCS timely files this Notice within the 30-day limit established by § 1446(b)(1).

6. The United States District Court for the Eastern District of Missouri has original jurisdiction over this matter under 28 U.S.C. § 1331 because Plaintiff's Petition implicates the Court's federal question jurisdiction, specifically the federal TCPA. Ex. A ¶¶ 1-35.

7. Removal to the United States District Court for the Eastern District of Missouri is proper under 28 U.S.C. § 1441(a), which provides that any civil action brought in a County and/or State Court where the District Courts of the United States have original jurisdiction is removable to the Division of the United States District Court embracing the place where such action is pending.

8. Accordingly, this Court has subject matter jurisdiction over this action, and this case is properly removed to this Court.

9. As required by 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon Defendant are attached as **Exhibit D**.

10. As required by 28 U.S.C. § 1446(d), written notice of the filing of this Notice will be promptly served on Plaintiffs' counsel.

11. As required by 28 U.S.C. § 1446(d), VCS has filed a Notice of Filing of the Notice of Removal with the St. Louis County Circuit Court, State of Missouri.

WHEREFORE, Defendant Vacation Consulting Services, LLC gives notice that the above-entitled action is removed and transferred forthwith from the Circuit Court of St. Louis County, State of Missouri to the United States District for the Eastern District of Missouri.

Dated: February 21, 2017

By: s/ Matthew A. Jacober, Esq.  
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Attorneys for Defendant Vacation Consulting  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 21, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and via first class mail upon:

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s/ Matthew A. Jacober